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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/881,393

06/13/2001

Ronald A. Katz

6646-114N9

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08/25/2005

REENA KUYPER, ESQ.  
BYARD NILSSON, ESQ.  
9255 SUNSET BOULEVARD  
SUITE 810  
LOS ANGELES, CA 90069

EXAMINER

WOO, STELLA L

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/881,393	KATZ, RONALD A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stella L. Woo	2643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/08/04</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 22-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Independent claims 22-24 each recite a "cell file." However, applicant's specification does not provide for support for the phrase "cell file."

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22-24, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canadian Patent No. 1,162,336 (hereinafter "DeBruyn") in view of Szlam et al. (US 4,797,911, hereinafter "Szlam").

Regarding claims 22-23, 26, DeBruyn discloses a method comprising the steps of:

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receiving caller number identification signals (a caller's telephone number is received and recorded in memory; page 1, lines 26-28; page 3, lines 26-28; page 6, lines 24-26; page 9, lines 5-6);

cuing via a voice generator (telephone reply apparatus 8 prompts a caller for input; page 1, lines 23-29; page 3, lines 24-26; page 4, line 23 – page 5, line 6);

selectively identifying said responsive signals (response signals from callers are identified as lottery entry data, page 5, lines 6-11, or a control signal "0" to erase the caller's entry, page 6, lines 11-14), said responsive signals including signals indicative of a customer identification number (a secret code attributed to each player can be required to access the computer system; page 6, line 28 – page 7, line 2);

testing at least a portion of said customer identification for approval (participation in the lottery may require a secret code; page 6, line 28 – page 7, line 2);

recording said caller identification signals (the caller's telephone number is stored in memory 9, page 3, lines 26-28, and, if the caller is entitled to participate in the lottery, is later stored in auxiliary memory 10, page 3, line 28 – page 4, line 2; page 5, lines 11-19) and digital data signals flagged or otherwise distinguished for subsequent processing (Lotto numbers selected by the caller are recorded at the central computer 4 and subsequently processed after the winning numbers have been drawn; page 4, lines 9-10; page 6, lines 5-8; page 7, lines 3-12) ; and

confirming via the voice generator (data entered by the caller is stored in memory 9 and repeated in spoken form to the caller by converting and confirming apparatus 11; page 4, lines 5-8; page 5, lines 22-26).

DeBruyn differs from claims 22-23, 26 in that it does not provide for the step of transferring calls to at least one live operation station. However, Szlam teaches the desirability of transferring a call to an operator terminal (col. 12, lines 9-66), in which both data entered by the caller (telephone number or account number; col. 13, lines 18-22) and data stored for the caller (customer account information previously stored in the mainframe 16; col. 12, lines 39-42) is displayed upon the screen of the operator terminal (col. 13, lines 22-29). It would have been obvious to an artisan of ordinary skill to incorporate such use of an operator terminal, as taught by Szlam, within the method of DeBruyn in order to provide human assistance as well as to collect more detailed information regarding the caller.

DeBruyn further differs from claims 23, 26 in that although it provides for comparing the caller's telephone number with memory 10 to determine whether the caller's telephone number has already been recorded for the current Lotto game (page 5, lines 11-21; page 3, line 28 – page 4, line 5), it does not specify that the caller's telephone number is received as data entered by the caller. However, Szlam teaches the desirability of receiving a caller's telephone number by prompting the caller to key in this telephone number (col. 13, lines 18-20) in the event ANI is not available (col. 13, lines 1-2) such that it would have been obvious to an artisan of ordinary skill to incorporate such prompting and receiving of a telephone number from the caller, as taught by Szlam, within the method of DeBruyn in order to accommodate callers from locations in which ANI is not available.

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeBruyn and Szlam, as applied to claims 22-23 above, and further in view of Entenmann et al. (US 4,996,705, hereinafter "Entenmann").

The combination of DeBruyn and Szlam differs from claim 24 in that it does not specify receiving and testing caller credit card number data. Rather, in DeBruyn, the lottery participation charges are billed to the caller's telephone account (page 6, lines 24-27). However, Entenmann teaches the well known use of a credit card account to pay for participating in a lottery (col. 2, lines 63-65) such that it would have been obvious to an artisan of ordinary skill to incorporate the use of credit card payment, as taught by Entenmann, within the combination of DeBruyn and Szlam in order to provide a caller with an another payment option.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeBruyn, Szlam and Entenmann, as applied to claim 24 above, and further in view of Stephenson, Jr. et al. (US 3,727,186, hereinafter "Stephenson").

The combination of DeBruyn, Szlam and Entenmann differs from claim 25 in that although it does teach credit card authorization (Entenmann, col. 2, lines 63-65), it does not specify testing against a negative list of credit card numbers. However, Stephenson teaches that it is old and well known in the credit authorization art to test against a negative list (warning file 30) when determining whether or not a credit card number is authorized (col. 5, lines 22-28; col. 6, lines 30-37) such that it would have been obvious to an artisan of ordinary skill to test against such a negative list, as taught by Stephenson, within the combination of DeBruyn, Szlam and Entenmann so that credit card number can be more quickly verified by checking against a warning file of unauthorized credit card numbers.

7. Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeBruyn and Szlam, as applied to claim 26 above, and further in view of Barger, Jr. et al. (US 4,071,698, hereinafter "Barger").

The combination of DeBruyn and Szlam differs from claims 27-29 in that although Szlam teaches the automatic display of caller information on the screen of an operator terminal (col. 13, lines 22-29), it does not specify the display at the attended terminal being automatically caused subsequent to a caller entering an invalid or incorrect account number or a specific code to request an operator. However, in Barger, callers whose credit cannot be validated or those determined to be freeloaders or those who key in a specified code requesting operator assistance are automatically connected with an attended terminal 39 (col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40) such that it would have been obvious to an artisan of ordinary skill to incorporate such automatic transfer and display at the operator terminal, as taught by Barger, within the combination of DeBruyn and Szlam in order to provide human assistance to a caller automatically when it is determined that assistance is needed.

***Response to Arguments***

8. Applicant's arguments filed April 25, 2005 have been fully considered but they are not persuasive.

Applicant argues that "De Bruyn ... does not appear to suggest exercising control to selectively record caller identification number signals as well as digital data signals." However, De Bruyn provides for recording a caller's telephone number and Lotto numbers at the central computer 4 only if the caller has not already participated in the current Lotto game (page 5, lines 11-19).

Applicant argues that "there appears to be no suggestion of flagging data for subsequent processing." However, the Lotto number entries recorded at central computer 4 must be

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distinguished from other data, i.e. telephone numbers, for comparison with the winning Lotto numbers (page 7, lines 3-12).

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

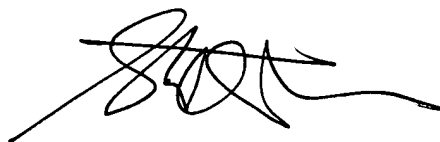
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Stella L. Woo', with a long horizontal line extending to the right.

Stella L. Woo  
Primary Examiner  
Art Unit 2643